23	Co-operative Cottage Industries Co-operative Society, Tumkur ...	1,000
24	Mullegal Valley Co-operative Farming Co-operative Society ...	1,000
25	Attigudda Tenant Farming C.S. ..	1,500
26	Karekere Joint Farming C.S.	2,000
27	Halaganahalli Farming C.S.	2,500
28	Vanakemaradi Farming C.S.	1,000
29	Arehalli Farming C.S. ...	1,000
30	Thalikatte Farming C.S. ...	1,000
31	Anjanapura Co-operative Farming Co-operative Society ...	7,500
32	Rudrapura Co-operative Farming Co-operative Society, Channagiri taluk	2,500
	Total ...	99,100

PRIVILEGE MOTION.

Re. Sri H. M. Channabasappa's Eligibility to be Member of the House.

Sri K. PUTTASWAMY (Srirangapatna).– Sir, is he raising a point of privilege of the House or privilege of a member ?

*Sri Mulka GOVINDA REDDY (Chitaldrug).—Sir, I have tabled a motion of privilege of the House.

Sir, Sri H. M Channabasappa was sitting and participating in the deliberations of this House. Under the Constitution of India and under Article 170, the State Assemblies are constituted by direct election and in one particular case only, namely, with regard to the Anglo-Indian community, the Rajapramukh has got power to nominate one Member. So, it is only the elected Members of this Assembly that can sit and participate in the deliberations of this House. Sri Channabasappa contested for the elections in 1952 and he was defeated by one Sri Mariappa and that election was set aside and when a re-election was held, for the improper rejection of the nomination of one Sri Kariappa, Sri Channabasappa was declared elected, though there was no contest as such. An election petition was filed. The Tribunal after sitting for 13½ months, gave a decision on 31st March 1956 declaring the election of Sri Channabasappa as wholely void. That decision was the unanimous decision of the Tribunal. They have particularly stated that the election was wholely void, implying that from the date of election Sri Channabasappa was not elected and whatever action he has done as a member of the Legislature from that date does not amount to have been done according to law. It must be remembered, Sir, that in the first general elections, he was defeated; in the second election, he was elected without any contest, as there was improper rejection of the nomination paper. The Election Tribunal has very unequivocally said that the rejection of the nomination paper was improper and therefore Sri Channabasappa has ceased to be member of the Legislative Assembly according to the Tribunal from the date on which he was declared to have been elected. Sri Channabasappa being a party in that election proceedings, has come to know of the judgment that has been delivered by the Election Tribunal on 31st March 1956. He cannot at any rate plead ignorance of the result of his election. To-day, he has attended this Assembly—in what capacity, I do not know. When he was made a Minister of the Government of Mysore, he was made a Minister in his capacity as Member of the Legislative Assembly, and to-day when he has ceased to be a Member of the Legislative Assembly, he has no right to come and attend and participate in the proceedings of this House. For my purpose and for the purpose of the Constitution, he is a stranger and an intruder and he has committed an offence for which he will have to pay a penalty of Rs. 500 for every day of his attendance. When a person is not a Member of this Assembly, either elected or nominated—and only an Anglo-Indian member can get nominated and no other—he has

(SRI MULKA GOVINDA REDDY.)
come and attended this Assembly and therefore fundamentally the principle of election that has been adumbrated under the Constitution has been violated by him and he is a culprit to that extent and therefore a breach of privilege of the Members of this House, severally and collectively has occurred. I would therefore request the Chair to direct Sri Channabasappa not to step into the precincts of this House and request that immediate steps be taken to hold an election for Periapatna Constituency.

Sri A. BHEEMAPPA NAIK (Molakalmuru).—How do we know that this order has been passed unless it has been published somewhere officially? How do we know that Sri Channabasappa wants to come in here? Sri Channabasappa is not here and my friend said that he is an intruder and so on when he is not actually sitting in this House. I think the House cannot take cognisance of the information which has been published only in a newspaper.

Sri Mulka GOVINDA REDDY.—Sir, Sri Bheemappa Naik was not here when I raised the point of privilege as soon as the Assembly commenced its business today. Sri Channabasappa was sitting in the Assembly and I raised the point of privilege drawing attention of the Chair to the fact that the election of Sri H. M. Channabasappa has been declared wholely void and that the matter had been published in the issue of the *Deccan Herald* and all other newspapers on 1st April 1956; and the judgment was delivered in the open court wherein he was a party. Knowing fully well that his election was declared void, by sitting in the House, he has committed a double offence. If he had attended the Session without knowing what the result was, it was a different matter. Knowing full well, that his election had been set aside, he participated in the deliberations of this Assembly to which the attention of the Chair was drawn.

Mr. SPEAKER.—Is it the opinion of the Hon'ble Member that he is offending article 193 of the Constitution?

Sri Mulka GOVINDA REDDY.—I will read that Article, Sir:

> "If a person sits or votes as a member of the Legislative Assembly or the Legislative Council of a State before he has complied with the requirements of article 188, or when he knows that he is not qualified or that he is disqualified for membership thereof, or that he is prohibited from so doing by the provisions of any law made by Parliament or the Legislature of the State, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the State."

That is the point referred to in Article 193. If in addition to participating in the deliberations of this House, he has carried on the administration of the State, he is also liable under some other provisions of this Constitution.

Mr. SPEAKER.—What does the Hon'ble Member say about 164 (4)?

Sri Mulka GOVINDA REDDY.—I shall read that Article also, Sir:

> "164 (4): A Minister who for any period of six consecutive months is not a member of the Legislature of the State, shall at the expiration of that period cease to be a Minister"

This clause does not apply to Sri Channabasappa for the following reasons Sir: Sri Channabasappa was a Minister of the Government of Mysore in his capacity as a Member of the Legislative Assembly. He was not made Minister of the State when he was not a Member of this Assembly. That distinction should be clearly made. He was made Minister because he was a Member of the Legislative Assembly and therefore this particular clause does not apply. According to the Election tribunal, his election has been set aside from the date of his declaration as being elected Member of the Assembly Even granting that he was not a Member when he was made a Minister of the Government of Mysore, he has spent more than eleven months as a Minister even

granting that this clause does not apply to Sri Channabasappa.

*ಶ್ರೀ ಎಸ್. ಗೋಪಾಲಗೌಡ (ಸಾಗರ—ಹೊನ ನಗರ).—ಸ್ವಾಮಿ, ಈಗ ಮಾನ್ಯ ಸದಸ್ಯರಾದ ಶ್ರೀ ಮುಲ್ಕ ಗೋವಿಂದರೆಡ್ಡಿಯವರು ಎತ್ತಿರತಕ್ಕಂಥ ಸಭೆಯ ಹಕ್ಕು ಬಾಧ್ಯತೆಗೆ ಸಂಬಂಧಪಟ್ಟ ಪ್ರಶ್ನೆಯ ಬಗ್ಗೆ ಅವರು ಹೇಳಿರುವುದರ ಜೊತೆಗೆ ಒಂದೆರಡು ವಿಷಯಗಳನ್ನು ಮಾತ್ರ ಹೇಳಬೇಕಾಗಿದೆ. ಇದರಲ್ಲಿ ಶ್ರೀ ಭೀಮಪ್ಪನಾಯಕರು ಒಂದು ಅನುಮಾನವನ್ನು ವ್ಯಕ್ತ ಪಡಿಸಿದರು. ಇಲ್ಲಿ ಶ್ರೀ ಭೀಮಪ್ಪನಾಯಕರು ವ್ಯಕ್ತ ಪಡಿಸಿರುವ ಅನುಮಾನಕ್ಕೆ ಯಾವ ಆನ್ವದವೂ ಇಲ್ಲ. ಅವರು ವಕೀಲರಾದ್ದರಿಂದ ಓರ್ಪ್ ಕೋರ್ಟ್‌ನಲ್ಲಿ ಜಡ್ಜ್ ಮೆಂಟ್ ಅನ್‌ಸ್ಸ್ ಮಾಡಿದರೆ ಅದರ ಅರ್ಥವೇ ನೆಂಬುದು ಕೂಡ ಅವರಿಗೆ ಗೊತ್ತಿದೆ.

ಆಮೇಲೆ ಶ್ರೀ ಎಚ್. ಎಂ. ಚನ್ನಬಸಪ್ಪನವರು ಮಾನ್ಯ ಸಭೆಯ ಸದಸ್ಯರಾಗಿದ್ದಾರೆ ಮತ್ತು ಶ್ರೀ ಎಚ್. ಎಂ. ಚನ್ನಬಸಪ್ಪನವರು ಅವರ ಚುನಾವಣೆಗೆ ಸಂಬಂಧಪಟ್ಟ ಹಾಗೆ ಆ ಕೇಸಿನಲ್ಲಿ ಒಬ್ಬರು ಪಾರ್ಟಿ ಕೂಡ ಆಗಿದ್ದಾರೆ. ಆದ್ದರಿಂದ ಎಲೆಕ್ಷನ್ ಟ್ರಿಬ್ಯೂನಲ್ ತೀರ್ಮಾನ ಕೊಟ್ಟ ತಕ್ಷಣವೇ ಶ್ರೀ ಚನ್ನಬಸಪ್ಪನವರಿಗೆ ಆ ವಿಷಯ ತಿಳಿದಿದೆ. ಮತ್ತು ಆ ಸದಸ್ಯರಿಗೆ ಇಲ್ಲಿ ಸಂಬಂಧಪಟ್ಟಿರತಕ್ಕ ಒಬ್ಬರು ಸಭಾ ಸದಸ್ಯರಿಗೂ ಅಧ್ಯಕ್ಷರಿಗೂ ಈ ತೀರ್ಮಾನವನ್ನು ಕಮಿಷನ್ನಿನವರು ತಿಳಿಸಿಯೇ ಇರುತ್ತಾರೆ; ತಿಳಿಸಬೇಕಾದದ್ದೂ ಅವರ ಕೆಲಸ. ಆದ್ದರಿಂದ ತಾವು 174ನೆಯ ವಿಧಿ ಪ್ರಕಾರ ಈ ವಿಷಯವನ್ನು ಸಭೆಯ ಗಮನಕ್ಕೆ ತಂದು ಕಾರ್ಯಕ್ರಮವನ್ನು ತೆಗೆದುಕೊಂಡು ಒಂದು ವ್ಯವಸ್ಥೆ ಮಾಡಿರುತ್ತೀರಿ. ಶ್ರೀ ಚನ್ನಬಸಪ್ಪನವರು ಈ ದಿವಸ ಸಭೆಯಲ್ಲಿ ಹಾಜರಿರುವುದಿಲ್ಲ ಎಂದು ನಾನು ತಿಳಿದುಕೊಂಡಿದ್ದೆ. ಆದರೆ ಈಗಾಗಲೇ ತಾವು ಸಭೆಯ ಗಮನಕ್ಕೆ ತಂದಿರತಕ್ಕ ಕ್ಲಾಜಿನ ಆಶ್ರಯದಂತೆ ಅವಕಾಶವನ್ನು ಪಡೆದು ಒಂದು ಅರ್ಥದಲ್ಲಿ ಬಹುಶಃ ಈ ಸಭೆಗೆ ಬರತಕ್ಕ ಒಂದು ದಾಪ್ಷ್ಟ್ಯವನ್ನು ಮಾಡಿರ ಬೇಕೆಂದು ನಾನು ತಿಳಿದುಕೊಂಡಿದ್ದೇನೆ.

ಅಧ್ಯಕ್ಷರು.—ಮಾಡಿಲ್ಲ, ಅವರಿಗೇನೂ ಹೇಳಿಲ್ಲ, ಈ ವಿಷಯ ನನಗೆ ಗೊತ್ತಿಲ್ಲ. I also read it in the paper. The point is: whether that is sufficient. Another point is: under 164 (4), is he not entitled to si tas a Member and continue to work in this House?

ಶ್ರೀ ಎಸ್. ಗೋಪಾಲಗೌಡ.—ಆ ವಿಧಿಯ ಪ್ರಕಾರ ಸಾಮಾನ್ಯವಾಗಿ ಯಾರು ಈ ಸಭೆಯ ಸದಸ್ಯರಲ್ಲವೋ, ಚುನಾವಣೆ ಮುಖಾಂತರವೇ ಆಗಲಿ, ನಾಮಕರಣದ ಮುಖಾಂತರವೇ ಆಗಲಿ ಯಾರು ಈ ಸಭೆಯ ಸದಸ್ಯರಾಗಿರುವುದಿಲ್ಲವೋ ಅಂಥವರಿಗೆ ಮಂತ್ರಿ ಮಂಡಲದಲ್ಲಿ ಸ್ಥಾನ ಕೊಡುವ ಸಂದರ್ಭದಲ್ಲಿ ಮೇಲ್ಮನ ಸದಸ್ಯರನ್ನಾಗಿ ಮಾಡಿ ಅಥವಾ ನಾಮಕರಣ ಮಾಡಿ ಆರು ತಿಂಗಳಲ್ಲಿ ಅವರು ಈ ಸಭೆಯ ಸದಸ್ಯರಾಗ ಬೇಕು. ರಾಜ್ಯಾಂಗದಲ್ಲಿ ಈ ರೀತಿ ಕಾಣಿಸಿದೆ. ಯಾವ ಸದಸ್ಯರು ಈ ಸಭೆಯ ಸದಸ್ಯರಾಗಿದ್ದಾರೋ ಮತ್ತು ಯಾರ ಸದಸ್ಯತ್ವದ ಬಗ್ಗೆ ಎಲೆಕ್ಷನ್ ಡಿಸ್ಪ್ಯೂಟ್ ಇದ್ದು ಅವರ ಕೇಸನ್ನು ಟ್ರಿಬ್ಯೂನಲ್‌ಗೆ ಒಪ್ಪಿಸಿದ್ದು ಆ ಟ್ರಿಬ್ಯೂನಲ್ ಅವರ ಚುನಾವಣೆ ಸಂಪೂರ್ಣವಾಗಿ ಅಕ್ರಮವೆಂದು ತಿಳಿಸಿದ ಮೇಲೂ ಕೂಡ ಈ ಸಭೆಯಲ್ಲಿ ಅವರು ಸದಸ್ಯರಾಗಿ ಬೇರೆ ಒಂದು ವಿಧಿಯ ಆಶ್ರಯದಲ್ಲಿ ಇಲ್ಲಿದ್ದಾರೆಂದರೆ, ಅದು ಸಂಪೂರ್ಣವಾಗಿ ಅಕ್ರಮವಾಗುತ್ತದೆ. ಅಂಥ ಒಂದು ಅವಕಾಶ ಈ ವಿಧಿಗಳಲ್ಲಿ ಎಲ್ಲೂ ಕಂಡುಬರುವುದಿಲ್ಲವೆಂಬುದು ನನ್ನ ಖಚಿತವಾದ ಅಭಿಪ್ರಾಯ. ಆದ್ದರಿಂದ ಇದರಲ್ಲಿ ಈಗಾಗಲೇ ಶ್ರೀ ಮುಲ್ಕ ಗೋವಿಂದರೆಡ್ಡಿಯವರು ಹೇಳಿರುವ ಹಾಗೆ ಶ್ರೀ ಚನ್ನಬಸಪ್ಪನವರು ನಾನಾ ಅಕ್ರಮಗಳಿಗೆ ಈ ಕಾರಣದಿಂದ ಗುರಿಯಾಗಿದ್ದಾರೆ.

Mr. SPEAKER.—We shall not go into the merits of the case.

ಶ್ರೀ ಎಸ್. ಗೋಪಾಲಗೌಡ.—ಪ್ರಿವಿಲೆಜ್ ಹೇಗೆ ಬ್ರೀಚ್ ಆಗಿದೆ ಎಂಬುದನ್ನು ತಿಳಿಸುತ್ತೇನೆ. ಚುನಾವಣೆ ಕ್ರಮಬಾಗಿ ನಡೆಯಿಲ್ಲಲ್ಲ ಎಂದು ಎಲೆಕ್ಷನ್ ಟ್ರಿಬ್ಯೂನಲ್ ತೀರ್ಮಾನ ಕೊಟ್ಟ ತಕ್ಷಣ, ಅದು ಯಾವಾಗ ತಿಳಿಯಿತೋ ಆ ಕ್ಷಣ, ಅವರು ಮಂತ್ರಿ ಮಂಡಲದ ಕೆಲಸ ಮತ್ತು ಈ ಸಭೆಯಲ್ಲಿ ಭಾಗವಹಿಸ ತಕ್ಕ ಕೆಲಸ ಎರಡನ್ನೂ ಕೈಬಿಡಬೇಕಾಗಿತ್ತು. ಇದು ಪ್ರೊಟೊಮಾಫ್ಯಾಸಿ ಕೇಸ್, ಇದರಲ್ಲಿ ಹೆಚ್ಚಿನ ವ್ಯಾಖ್ಯಾನಕ್ಕೆ ಅವಕಾಶವಿಲ್ಲ. ಜೊತೆಗೆ ತಾವು ಉದಹರಿಸಿದ ವಿಧಿಯ ಪ್ರಕಾರ ಅವರು ಶನಿವಾರದಿಂದ ಮಂತ್ರಿ ಮಂಡಲದ ಕೆಲಸವನ್ನು ಕೂಡ ಮುಂದುವರಿಸಿಕೊಂಡು ಹೋಗಿದ್ದಾರೆ; ಈಗಲೂ ಮುಂದುವರಿಸಿಕೊಂಡು ಹೋಗುತ್ತಾ, ಈ ಸಭೆಯಲ್ಲಿ ಕುಳಿತಿದ್ದಾರೆ ಎಂದು ಹೇಳುವುದು ನನಗಂತೂ ಅರ್ಥವಾಗುವುದಿಲ್ಲ; ಯಾವ ರೀತಿ ತಾವು ಆಶ್ರಯ ಕೊಟ್ಟಿದ್ದೀರೋ ನನಗೆ ತಿಳಿಯುವುದಿಲ್ಲ. ಆದ್ದರಿಂದ ಈ ರೀತಿ ಮಾನ್ಯ ಸಭೆಯ ಹಕ್ಕು ಬಾಧ್ಯತೆಗೆ ಧಕ್ಕೆ ಬರತಕ್ಕ ಒಂದು ಸಂಬಂಧದಲ್ಲಿ ತಾವು ಸೂಕ್ತವಾದ ಕ್ರಮವನ್ನು ಕೈಕೊಳ್ಳಬೇಕೆಂಬುದು ನನ್ನ ಅರಿಕೆ. ತಾವೂ, ನಾನೂ ಅವರ ಬಗ್ಗೆ ಸಹಾನುಭೂತಿ ವ್ಯಕ್ತಪಡಿಸಬಹುದು. ಮಾನ್ಯ ಸದಸ್ಯರೊಬ್ಬರು ಈ ರೀತಿ ತೀರ್ಮಾನವಾಗಬಾರದಾಗಿತ್ತು ಎಂದು ಹೇಳುತ್ತಿದ್ದರು. ಆದರೆ ಇದು ನಮ್ಮ ಕೈವಾಡವಲ್ಲ. ಆದ್ದರಿಂದ ಸಹಾನುಭೂತಿಯನ್ನು ವ್ಯಕ್ತಪಡಿಸಿದರೂ ಅದು ವ್ಯರ್ಥವೇ. ಅವರಿಗೆ ಪ್ರತ್ಯೇಕವಾಗಿ ಸಹಾನುಭೂತಿಯನ್ನು ವ್ಯಕ್ತಪಡಿಸಬಹುದೇ ಹೊರತು ಈ ಸಭೆಯಲ್ಲಿ ಸದಸ್ಯರಾಗಿರಲಿ, ಪಥವಾಗಿಲ್ಲ ಎಂಬ ಸಹಾನುಭೂತಿಯನ್ನು ಮಾತ್ರ ಅವರಿಗೆ ಕರುಣಿಸುವುದಕ್ಕೆ ಸಾಧ್ಯವಿಲ್ಲ. ಆದ್ದರಿಂದ ಇದು ಪ್ರೊಟೊಮಾಫ್ಯಾಸಿ ಕೇಸ್ ಆಗಿರುವುದರಿಂದ ತಾವು ಹೆಚ್ಚು ತಡಮಾಡದೆ ಸೂಕ್ತ ಕಾರ್ಯಕ್ರಮ ಕೈಕೊಂಡು ಶ್ರೀ ಚನ್ನಬಸಪ್ಪನವರು ಜೈಜರಿ ಗ್ಯಾಲರಿಯಲ್ಲಿ ಬಂದು ಕೂತುಕೊಳ್ಳದಂತೆ ಅಪ್ಪಣೆ ಕೊಡಿಸ ಬೇಕೆಂದುಪ್ರಾರ್ಥಿಸುತ್ತೇನೆ.

Sri K. PATTABHIRAMAN (Kolar).—Sir, before I offer some remarks on this very important issue that has been raised by my friend Sri Mulka Govinda Reddy, I should like to give some personal expression. To the person concerned—Sri Channabasappa—I have absolutely nothing but greatest regard and I am sure he will not mistake the spirit in which I am making these remarks.

We are only concerned with one question and that is, Sri Channabasappa has not been reappointed as a Minister and he continues to sit in this House. If the former was the case, I personally feel, it would have

(SRI K. PATTABHIRAMAN.)

made a world of difference. That kind of a case would have certainly attracted article 164 (4) that you were referring to. This is how it reads :

> "164 (4). A Minister who for any period of six consecutive months is not a member of the Legislature of the State shall at the expiration of that period cease to be a Minister."

Therefore, we must draw a distinction, in my humble opinion, between the two positions. Sri Channabasappa is a Minister who was appointed some months ago—nearly a year—continuing to sit in contradistinction from Sri Channabasappa reappointed as a Minister after the orders were pronounced in the open Court on Saturday. But the question is, Sri Channabasappa is here as a *bona fide* member of this House on account of the Returning Officer declaring him as returned unopposed and then he being appointed as a Minister. The Tribunal has now declared his election as void and therefore he ceases to be a member. It is in that background that you will have to consider this point. I personally feel, the determining test in this case would be the six months period; that is the most important point in article 164(4). It means not that he could continue in spite of the order of the Tribunal for another six months from now, but it says that the statut ry period of six months means from the date of his becoming a member. That is the extreme limit. If you say six months would apply from this day, that would be extending the period that is not contemplated. If you think that from Saturday last the six months period would apply and he can become a member, that would be defying the very purpose of article 164(4) and extending the period that is not warranted under law and what is not in conformation with 164(4). Therefore, it is very clear. It is one of the accepted principles of Constitution, Law and Practice that wherever periods are mentioned they should always be strictly considered. It is not open to any Authority to extend that period. Therefore, he ceases to be a member.

In these matters, apart from the Constitution, it is the usage and what is called the political and conventional side of these things that count. Proper conventions have got to be set up. When a Judicial Tribunal pronounces that he ceases to be a member, to say, notwithstanding that decision he may continue for six months from now, would be—I do not want to say contempt—I would only say, discourtesy to the Tribunal. As I already pointed out, this is not a question of reappointment, but a question of continuing as Minister.

So far as the right of audience is concerned, the right of audience and the right of sitting in this House is available in three ways. One is, duly elected as a member of this House; second, by being a nominated member who can only be an an Anglo-Indian; and third, any Minister who can sit here but without the right of voting. These would be the three tests to see if there is breach of privilege of this House or not. Certainly, Sri Channabasappa cannot come under the first category becase the competent Tribunal has declared that he ceases to be a member of this House; nor in the second, only available to an Anglo-Indian; the only provision under which he can get the right of audience is as Minister who gets the right of sitting in the House but not entitled to vote. The moment he is declared to have ceased as a member, he has got to be reappointed; then only 164(4) will be attracted.

Sir, there is also a precedent, though to a limited extent, in the case of the Finance Minister of Mandhya Pradesh. I do not say that the circumstances in both the cases are similar. Sri Byani the Finance Minister of Madhya Pradesh had to face a similar case before the Tribunal. The Tribunal pronounced that he ceased to be a member and the election was set aside. He did not resign. A writ was filed in the High Court. When the writ was pending, he resigned. Though it is not a judicial precedent that I should like to cite before this House,

I only suggest that he did well in resigning. I feel Sri Channabasappa should resign and if the Government think that they cannot go on without him, it is certainly open for them to renominate him as Minister. This is a matter which you can either dispose of as on *prima facie* material or refer it to the Privilege Committee as you deem it right.

1-30 P.M.

I personally feel that the privilege motion made by Sri Govinda Reddy deserves to be upheld.

Mr. SPEAKER.—May I bring this to the notice of the Hon'ble Member? Section 107 of the Representation of the People Act says :

> "An order of the Tribunal under Section 98 or Section 99 shall not take effect until it is published in the *Gazette of India* under Section 106."

Sri K. PATTABHIRAMAN.—Your doubts are very genuine, but may I hope to satisfy you? Please read Section 107 a bit carefully. "An order of the Tribunal under Section 98 or section 99 shall not take effect until it is published in the *Gazette of India* under section 106." That refers to the consequential steps which should ensue as a result of that. But so far as this is concerned, you will see under the Constitution a judgment pronounced in open court is a judgment *in rem* and not a judgment *in personem*. It is a judgment known to the whole world. You may remember another case arising from Tarikere constituency. The Tribunal's order was questioned by the High Court of Mysore and the High Court of Mysore set aside the order of the Tribunal and declared that Mr. Nagappa was a member. You may remember that the moment the order was pronounced, Sri Nagappa came and sat as a member of this House. It is the question of further steps that is what is contemplated in Section 107. Unless it comes in the *Gazette of India*, the further steps cannot take the effect. Suppose Sri Channabasappa—I don't propose it to him but I am giving an analogy—had filed an appeal before the High Court and the High Court stayed the order. He would have been entitled to sit here. That is different from the interpretation that you are putting on section 107. That, with great respect I may suggest, would be very much narrowing down the scope of section 107. That refers to the further steps that follow as a result of section 107. He can get the right of audience only if he is a Minister. Sri Mulka Govinda Reddy has made it very clear. Even Sri Channabasappa does not claim to be a member of this House to-day. He claims the right of audience as a Minister of the State and he is entitled to that, except to the question of right of voting; in other respects the Minister of State has got a right of auidence, provided he again becomes a Minister. The easiest thing, the correct thing is for him to be re-appointed as a Minister and he takes the oath of office again, comes and sits; we would be very happy with him. It is only the technical aspect I want the Chair to consider.

Mr. SPEAKER.—Can the Chair take notice of what has appeared in the Press and act according to it?

Sri K. PATTABHIRAMAN.—A judgment pronounced in open court is a judgment *in rem*. Supposing in a sessions trial, the accused is in the dock. In open court the Judge delivers a judgment to the stenographer. "In these circumstances, I acquit the man." That moment the accused is out of the dock, but to retain him then would be a case of wrongful custody. In fact, under the Constitution, you can take judicial notice of a judgment pronounced in open court. It does not mean that a copy of it has to be sent to you. Sri Channabasappa can get away to London and say, 'I do not know.' The moment it is pronounced, "may it be known to whomsoever concerned"—that is the tendency of a Judgment. It is certainly open to you to take judicial notice of a judgment delivered by a Tribunal. I do not know if Sri Channabasappa really pleads ignorance of the judgment. If he does, we would be very anxious to hear him to take up that stand so that

(SRI K. PATTABHIRAMAN.)

we may add further, if need be. Will you give him an opportunity?

*ಶ್ರೀ ಡಿ. ದೇವರಾಜ ಅರಸ್ (ಹುಣಸೂರು).— ಸ್ವಾಮಿ, ಶ್ರೀ ಕೆ. ಪುಟ್ಟಾಭಿರಾಮ್ ಅವರಿಗೆ ಮಾನ್ಯ ಅಧ್ಯಕ್ಷರು ಆ ಪೀಪಲ್ಸ್ ರೆಪ್ರೆಸೆಂಟೇಷನ್ ಆಕ್ಟಿನ 107 ನೆಯ ಸೆಕ್ಷನ್ನನ್ನು ನೋಡಿ ಎಂಬುದಾಗಿ ಹೇಳಿದಾಗ, ಅವರು ಆ ಸೆಕ್ಷನ್ನನ್ನು ಓದಿ ಅದು ಈ ಸಂದರ್ಭಕ್ಕೆ ಅನ್ವಯಿಸುವುದಿಲ್ಲ ಎಂಬುದಾಗಿ ಹೇಳಿದರು. ಹಾಗೆ ಅನ್ವಯಿಸುವುದಿಲ್ಲ ಎಂಬುದು ಏತಕ್ಕಾಗಿ ಎಂದರೆ— ಅದಕ್ಕೆ ಕಾರಣಗಳನ್ನು ನೂಚಿಸುತ್ತ ಶ್ರೀ ಕೆ. ಪಟ್ಟಾಭಿರಾಮ್ ಅವರು ಈಗ ಆ ಟ್ರೈಬ್ಯುನಲ್ಲಿನವರು ಆ ತೀರ್ಮಾನವನ್ನು ಓಪನ್ ಕೋರ್ಟಿನಲ್ಲಿ ಬಹಿರಂಗವಾಗಿ ಪ್ರೊನೌನ್ಸ್ ಮಾಡಿದ್ದಾರೆ, ಆದಕಾರಣ ಶ್ರೀ ಎಚ್. ಎಂ. ಚನ್ನಬಸಪ್ಪನವರು ನನಗೆ ಆ ವಿಚಾರ ಗೊತ್ತಿಲ್ಲ ಎಂಬುದಾಗಿ ಹೇಳಿ ಈಗ ಅದರ ಸೌಲಭ್ಯವನ್ನು ಪಡೆಯಲು ಸಾಧ್ಯವಿಲ್ಲ ಎಂಬುದಾಗಿ ತಿಳಿಸಿದ್ದಾರೆ. ಅಷ್ಟೇ ಅಲ್ಲದೆ ಅವರು ಈ ವಿಚಾರವನ್ನು ಪತ್ರಿಕೆಗಳಲ್ಲೂ ಕೂಡ ಪಬ್ಲಿಷ್ ಮಾಡಿಸಿದ್ದಾರೆ ಎಂಬುದಾಗಿ ಹೇಳಿದಾಗ ಶ್ರೀ ಚನ್ನಬಸಪ್ಪನವರು ಈ ವಿಚಾರ ನನಗೆ ಗೊತ್ತಿಲ್ಲ ಎಂದು ಹೇಳಲು ಸಾಧ್ಯವಿಲ್ಲ ಎಂದು ಹೇಳಿದರು. ಆದರೆ ಈಗ ಈ 107ನೆಯ ಸೆಕ್ಷನ್ನನ್ನು ವ್ಯಾಖ್ಯಾನ ಮಾಡುವುದಕ್ಕೆ ಪ್ರುವೇಶಮಾಡುವ ಮುನ್ನ ನಾವು ಈ ಸೆಕ್ಷನ್ನನ್ನು ಒಂದಾವರ್ತಿ ಓದಿ ಬಿಡೋಣ. ಆಗ ಇದು ಸರಿ ಹೋಗುತ್ತದೆ ಆ ಸೆಕ್ಷನ್ 107ರಲ್ಲಿ ಹೀಗೆ ಹೇಳಿದೆ:—

"*Orders to take effect only on publication.*—An order of the Tribunal under section 98 or section 99 shall not take effect until it is published in the *Gazette of India* under section 106."

ಹೀಗೆ ಈ ಸೆಕ್ಷನ್ 98 ಮತ್ತು 99 ಈ ಸಂದರ್ಭಕ್ಕೆ ಅನ್ವಯವಾಗುತ್ತವೆ ಎಂಬುದನ್ನು ತಿಳಿದುಕೊಳ್ಳಬೇಕಾಗಿದ್ದರೆ ಶ್ರೀಮಾನ್ ಪಟ್ಟಾಭಿರಾಮರವರು ಈ ಸೆಕ್ಷನ್ 98 ಮತ್ತು 99 ಎರಡನ್ನೂ ಸೇರಿಸಿ ಓದಿದ್ದರೆ ಆಗ ಅವರಿಗೆ ಇದು ಚೆನ್ನಾಗಿ ಅರ್ಥವಾಗುತ್ತಿತ್ತು. ಆದರೆ ಈ ಸೆಕ್ಷನ್‌ಗಳು ಈ ಸಂದರ್ಭಕ್ಕೆ ಅನ್ವಯಿಸುವುದಿಲ್ಲ ಎಂಬ ಅಂಶವನ್ನು ಅವರು ಏತಕ್ಕಾಗಿ ಹೇಳಿದರೆಂದರೆ: ಆ ಟ್ರಿಬ್ಯುನಲ್ ಅವರು ಆ ಆರ್ಡರನ್ನು ಓಪನ್ ಕೋರ್ಟಿನಲ್ಲಿ ಪ್ರೊನೌನ್ಸ್ ಮಾಡಿದ್ದಾರೆ. ಆದುದರಿಂದ ಇವು ಅನ್ವಯಿಸುವುದಿಲ್ಲವೆಂದು ಹೇಳಿದರು.

"Section 98: Decision of the Tribunal.—At the conclusion of the trial of an election petition the Tribunal shall make an order—

(*a*) dismissing the election petition; or (*b*) declaring the election of the returned candidate to be void; or (*c*) declaring the election of the returned candidate to be void and the petitioner or any other candidate to have been duly elected; or (*d*) declaring the election to be wholly void."

ಈಗ ಆ ಟ್ರಿಬ್ಯುನಲ್ ಆರ್ಡರ್‌ನ್ನು ನಾವು ಪತ್ರಿಕೆಗಳಲ್ಲಿ ಮಾತ್ರ ಓದಿದ್ದೇವೆ. ಆದರೆ ಈ ಸೆಕ್ಷನ್‌ನಲ್ಲಿ ಡಿಫೈನ್ ಮಾಡಿರುವ ರೀತ್ಯಾ ಎಂದರೆ—

"Section 99: Other orders to be made by the Tribunal—(1) At the time of making an order under section 98 the Tribunal shall also make an order—(*a*) Where any charge is made in the petition of any corrupt or illegal practice having been committed at the election. . . ."

ಇದು ಹಾಗೆ ಅಕ್ರಮವಾದ ಪ್ರಾವಿಷ್ ಆಗಿದ್ದಿದ್ದರೆ ಆ ವಿಚಾರವನ್ನು ಈ ಸೆಕ್ಷನ್ 99 ರಲ್ಲಿ ಅವರು ನಮೂದಿಸುತ್ತಿದ್ದರು. ಈಗ ನಮ್ಮ ಪ್ರಕೃತ ಸಂದರ್ಭಕ್ಕೆ ಈ ಸೆಕ್ಷನ್ 99ನ್ನು ತೆಗೆದುಕ್ಕೊಳ್ಳೋಣ. ಈ ಸೆಕ್ಷನ್ ಪ್ರಕಾರ ಆ ಟ್ರಿಬ್ಯುನಲ್‌ವರು ಹೊರಡಿಸಿರುವ ಜಡ್ಜ್‌ಮೆಂಟು ಈ ಮಾನ್ಯಸಭೆಗೆ ಮಾನ್ಯ ಅಧ್ಯಕ್ಷರಾದ ಸ್ಪೀಕರ್ ಅವರ ಮೂಲಕ ತಿಳಿದು ಬಂದಿಲ್ಲ. ಅವರೇನೋ ತೀರ್ಮಾನವನ್ನು ಓಪನ್ ಕೋರ್ಟಿನಲ್ಲೆ ಪ್ರೊನೌನ್ಸ್ ಮಾಡಿದ್ದಾರೆ. ಆದರೆ ಅದನ್ನು ಈ ಮಾನ್ಯ ಸಭೆಯ ಗಮನಕ್ಕೆ ಈ ಸೆಕ್ಷನ್ 107ರ ರೀತ್ಯ ತೆಗೆದುಕೊಳ್ಳಬೇಕಾದುದ್ದಿಲ್ಲ. ಅಷ್ಟೇ ಅಲ್ಲದೆ ಈ ತೀರ್ಮಾನ ಆ ಎರೆಕ್ಷನ್ ಕಮಿಷನ್ನಿನವರ ಮೂಲಕ ಇಂಡಿಯಾ ಸರ್ಕಾರದ ಗೆಜಿಟ್ಟಿನಲ್ಲಿ ಫಾಯಿಪ್ ಮಾಡಬೇಕೆಂದು ಸೆಕ್ಷನ್ 106ರಲ್ಲಿ ಹೇಳಿದೆ. ಆ ಸೆಕ್ಷನ್ 106 ರಲ್ಲಿ ಏನು ಹೇಳಿದೆ ಎಂದರೆ:—

"*Transmission of order to the appropriate authority, etc., and its publication.*—As soon as may be after the receipt of any order made by the Tribunal under section 98 or 99, the Election Commission shall forward copies of the order to the appropriate authority and, in the case where such order relates to an election (other than a primary election). . . ."

You please mark these words "...in the case where such order relates to an election (other than a primary election) to a House of Parliament or to an election to the House or a House of the Legislature of a State, also to the Speaker or Chairman, as the case may be, of the House concerned, and shall cause the order to be published in the *Gazette of India* and in the Official Gazette of the State concerned."

ಈ ಸೆಕ್ಷನ್ ರೀತ್ಯಾ ಆ ಟ್ರಿಬ್ಯುನಲ್‌ನವರು ನಾವೇ ಈ ರೀತಿ ಆರ್ಡರ್‌ಮಾಡಿಬ್ಬೇವೆ ಎಂದು ಹೇಳುವುದಕ್ಕೆ ಅವರಿಗೆ ಅಧಿಕಾರವಿಲ್ಲ. ಅಲ್ಲದೆ ಈ ಟ್ರಿಬ್ಯುನಲ್ ಎನ್ನುವುದು ಒಂದು ದೇಶದಲ್ಲಿರತಕ್ಕ ಹೈಕೋರ್ಟುಗಳ ಹಾಗೆ ಇಂಡಿಪೆಂಡೆಂಟ್ ಬಾಡಿ ಕೂಡ ಆಗಿರುವುದಿಲ್ಲ.

A Tribunal is not an independent body since it is created by the Election Commission of India.

ಆದಕಾರಣ ಈ ಸೆಕ್ಷನ್ 106ರ ಪ್ರಕಾರ ಈ ಒಂದು ಟ್ರಿಬ್ಯುನಲ್ ಅವರು ಕೊಟ್ಟಿರತಕ್ಕ ಆರ್ಡರನ್ನು ನೇರವಾಗಿ ಕಾರ್ಯರೂಪಕ್ಕೆ ತರಲು ಸಾಧ್ಯವಿಲ್ಲ. ಈ ಟ್ರಿಬ್ಯುನಲ್ ಅವರು ಅವರ ತೀರ್ಪನ್ನು ಎಲೆಕ್ಷನ್ ಕಮಿಷನರಿಗೆ ಕಳುಹಿಸಬೇಕು. ಆ ಎಲೆಕ್ಷನ್ ಕಮಿಷನ್ ಅವರು ಇದನ್ನು ಆರ್ಡರ್ ಮಾಡಿದ ಪಕ್ಷದಲ್ಲಿ ಅದನ್ನು ಅವರು ಸಂಬಂಧಪಟ್ಟ ಶಾಸನಸಭಾ ಸ್ಪೀಕರ್ ಅವರಿಗೆ ಆ ತೀರ್ಮಾನದ ಕಾಪಿ ಕಳುಹಿಸಬೇಕು. ಅಷ್ಟೇ ಅಲ್ಲದೆ ಆ ಕಮಿಷನ್ನಿನವರು ಆ ತೀರ್ಪನ್ನು ಇಂಡಿಯಾ ಸರ್ಕಾರದ ಗೆಜೆಟ್ಟಿನಲ್ಲಿ ಪಾಯಿಷ್ ಮಾಡಿಸಬೇಕೆಂಬುದಾಗಿ ಈ ಸೆಕ್ಷನ್ನಲ್ಲಿ ತಿಳಿಸಿದೆ. ಈ ಅಂಶವನ್ನು ಈ ಮಾನ್ಯ ಸಭೆ ಗಮನಿಸಬೇಕಾದದ್ದು ಬಹಳ ಮುಖ್ಯವಾದ್ದೆಂದು ನಾನು ತಿಳಿಸುತ್ತೇನೆ. ಈಗ ಆ ಟ್ರಿಬ್ಯುನಲ್ ಅವರು ಕೊಟ್ಟಿರುವ ತೀರ್ಪನ್ನು ನಾವು ಅಷ್ಟಾಗಿ ಗಮನಿಸಬೇಕಾಗಿಲ್ಲ. ಆದರೆ ಈ ದಿವಸ ಶ್ರೀ ಚನ್ನಬಸಪ್ಪನವರು ಮಂತ್ರಿಗಳಾಗಿರಬೇಕೇ ಅಥವಾ ಬೇಡವೇ ಎನ್ನುವುದು ಪ್ರಾಮುಖ್ಯವಾದ ಪ್ರಶ್ನೆಯಲ್ಲ. ಅವರು ಈ ಸಭೆಗೆ ಮೆಂಬರಾಗಿ ಇರಬಾರದು ಎಂದು ಆರ್ಡರ್ ಬಂದ ಮೇಲೆ does he continue to be a member of the House or not is the question at issue. We are not concerned with whether he is a Minister or not. The Ministership comes in later. According to this provision, he does continue to be a member of this House until the Speaker receives the intimation from the Election Commission, and also, for the House to take cognisance of the fact that there is an order to that effect, it must be published, according to section 106 of this Act, in the *Gazette of India*.

Sri A. BHEEMAPPA NAIK.—This is a primary election. They need not send it to the Speaker. It will have to be only published in the Gazette.

Sri D. DEVARAJ URS.—When it says "...Other than a primary election...," this is not a primary election at all. The section is so foolproof. Here the question whether Sri Channabasappa continues to be a member of this House or not does not at all arise until and unless the order is communicated to this House, that is, through you the Speaker, disqualifying Sri Channabasappa to be the member of this House.

Mr. SPEAKER.—If it is communicated even by the Tribunal, does it come into effect ?

Sri D. DEVARAJ URS.—It is very clear. The Election Tribunal has no authority to communicate its order to the Speaker because the Section clearly provides that the Election Tribunal can only. . . .

Mr. SPEAKER.—Suppose one of the Hon'ble Members brings a copy of the judgment and forwards it to me. Can I take cognisance of it ?

Sri D. DEVARAJ URS.—No. The Section is very clear. The Tribunal can only send its order to the Election Commission. It is the Election Commission that has to publish it or has to convey the order to the concerned Speaker and to the House of the Legislature.

*ಶ್ರೀ ಬಿ. ಹುಚ್ಚೇಗೌಡ (ತುರುವೇಕೆರೆ) —193ನೇ ಸೆಕ್ಷನ್ ಪ್ರಕಾರ ಒಬ್ಬ ಸದಸ್ಯರಿಗೆ ಡಿಸ್‌ಕ್ವಾಲಿಫಿಕೇಷನ್ ಉಂಟಾಯಿತು ಎಂದ ಕೂಡಲೇ ಅವರು ಈ ಸಭೆಗೆ ಬರಕೂಡದು ಎಂದು ಇದೆ. ಈಗ ಇನ್ನೊಂದು ವಿಷಯವೇನೆಂದರೆ, ಉದಾಹರಣೆಗೆ ಇಬ್ಬರು ಇದ್ದು ಒಬ್ಬರು ಡಿಸ್ ಕ್ವಾಲಿಫೈ ಆದರು ಎಂದ ಕೂಡಲೇ ಇನ್ನೊಬ್ಬರು ಬಂದು ಕುಳಿತುಕೊಳ್ಳುತ್ತಾ, ಇದ್ದರೋ ಇಲ್ಲವೊ ?

Sri A. BHEEMAPPA NAIK.—How can you say that ?

Sri B. HUTCHE GOWDA.—It is for me to say. ಎರಡು ಪಾರ್ಟಿ ಇದ್ದು ಒಬ್ಬರ ಎಲೆಕ್ಷನ್ set aside ಆಗಿ ಇನ್ನೊಬ್ಬರು ಬಂದು ಆ ದಿವಸವೇ ಇಲ್ಲಿ ಕುಳಿತುಕೊಂಡಿದ್ದುದನ್ನು ಹಿಂದೆ ಈ ಸಭೆಯಲ್ಲಿ ಎರಡು ಮೂರುಸಾರಿ ನೋಡಿದ್ದೇವೆ. ನಾಗಪ್ಪನವರ ಎಲೆಕ್ಷನ್ ಸೆಟ್ ಅಸೈಡ್ ಆಯಿತು, ಟಿ. ಸಿ. ಬಸಪ್ಪನವರು ಬಂದರು. ಅವೆಲ್ಲವೂ ಕೂಡ ಗೆಜೆಟ್ ನೋಟಿಫಿಕೇಷನ್ ಆಗುವುದಕ್ಕೆ ಮುಂಚೆಯೇ ಆದವು. ಈಗಲೂ ಕೂಡ ಅದೇ ರೀತಿ ಎಲೆಕ್ಷನ್ ಕೇಸು ಯಾವಾಗ ತೀರ್ಮಾನವಾಯಿತೋ ಆ ದಿವಸವೇ ಜಾರಿಗೆ ಬರಬೇಕಾದದ್ದು ನ್ಯಾಯ. ಅದಕ್ಕೆ ಈ 193 ನೇ ಸೆಕ್ಷನ್ ಉಪಯೋಗಿಸಬೇಕಾಗುತ್ತದೆ.

***Sri A. G. RAMACHANDRA RAO** (Minister for Law and Education).—Sir, I oppose the motion. I believe that the motion has been brought forward under a misconception of law. There are two issues arising out of this : one is with regard to membership and the other one is with regard to ministership. Regarding membership, as the House very well knows, immediately after election the Returning Officer will inform the House as to whether he is elected or not. That is the information given to the Speaker fore, till a notice is received by the Speaker, this House cannot take or such authority appointed. And loss of membership also has been provided for under section 106 of the Peoples, Representation Act. There-

(SRI A. G. RAMACHANDRA RAO.)
cognisance of that. That is my first point.

Secondly, it is also provided under section 107 that any order passed by the tribunal will not be effective till it is notified in the Gazette of the Government of India. Publication of news in any paper, however esteemed the paper may be, has no effect on us and especially on an important matter like this. I may assure the House I have not read the paper and I do not know anything about it. I am stating a fact. But supposing it has appeared in the Gazette, I could not make that plea. Because it is my duty to take cognisance of notification in the Gazette, but not publication thereof in any paper whatsoever. Therefore, this House at this stage cannot take any cognisance of it nor can we consider that there is any privilege affected in respect of the rights of members of this House.

Sri A. BHEEMAPPA NAIK.—Supposing a judgment copy is produced.

Sri A. G. RAMACHANDRA RAO.—Let it come and then we will consider.

Next, regarding ministership, I would very earnestly invite attention of the Hon'ble Members to article 164 of the Constitution. No qualification is prescribed there as to who should be a Minister or even a Chief Minister. It does not say a member shall only be Minister or even Chief Minister. The Governor will call upon the person to be the Chief Minister and the Chief Minister in his turn will advise the Governor as to who should be the Minister.

Mr. SPEAKER.—I think there are no two opinions about it. The Hon'ble Minister may meet the point raised by Sri K. Pattabhiraman.

Sri A. G. RAMACHANDRA RAO.—I am coming to that. First, as to who should be made a Minister, I will clear that point. Supposing he is a member, there is no further question about it. Supposing he is not a member, even then, he has to wait for six months.

A MEMBER.—From what date ?

Sri A. G. RAMACHANDRA RAO.—From the date he is not a member.

Sri S. SRINIVASA IYENGAR.—A person need not be a member to be nominated as Minister. Therefore, the date of ministry is from the date of appointment of minister.

Sri A. G. RAMACHANDRA RAO.—Members are rather in a hurry. I read the relevant article of the Constitution.

> "A Minister who for any period of six consecutive months is not a member of the Legislature of the State shall at the expiration of that period cease to be a Minister."

So, non-membership is permissible for six months.

Mr. SPEAKER.—That is evident, of course.

Sri Mulka GOVINDA REDDY.—He is missing a very fundamental point. It is only a saving clause to meet a certain circumstance. He need not be a member for a period of six months. But it is a basic qualification that he should be a member to become a Minister.

Sri A. G. RAMACHANDRA RAO.—No condition is there.

Sri K. PATTABHIRAMAN.—Both of us join and are in perfect agreement on the language of sub-clause 4 of the article.

> "A Minister who for any period of six consecutive months is not a member of the Legislature. ."

Therefore, at the time of the appointment as Minister, he is not a member. If such a man is appointed as Minister, the provision says that within six months he shall become a member. That is why I harped on the very idea that at the time of appointment he must be a non-member.

The statutory period of limitation is six months. Therefore I suggested that to get over all these, he may be reappointed as Minister, because he has ceased to be a member and he will get six months more to become a member of this House.

Sri A. G. RAMACHANDRA RAO.—The limitation suggested is not provided in the article. It is not provided that if a member is appointed as Minister and if he ceases to be a member,

then the following provisions follow. That is not the way in which the Constitution is enacted. It simply says that a non-member can be a Minister for six months. Therefore the question of reappointment does not arise.

Further, I draw the attention of the House to article 177 also.

> "Every Minister and the Advocate-General for a State shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly of the State or, in the case of State having a Legislative Council, both Houses, and to speak in, and otherwise to take part in the proceedings of, any committee of the Legislature of which he may be named a member, but shall not, by virtue of this article, be entitled to vote."

Therefore, in respect of membership about which a question has arisen now in respect of the judgment of the Tribunal, the judgment is not before us. Nor has the judgment been notified in the Gazette. Till then it is to be assumed that he is a member and the membership shall not cease unless he tenders resignation. Except in the case when he is out of office for a period of six months, and not otherwise, the restrictive interpretation put cannot be accepted, because that is not provided at all.

Further, I invite the attention of the House to article 192 also.

> "192. (1) If any question arises as to whether a member of a House of the Legislature of a State has become subject to any of the disqualifications mentioned in clause (1) of article 191, the question shall be referred for the decision of the Governor and his decision shall be final."

Certainly therefore the question cannot go before the Committee of Privileges. If and when the question arises, who should decide this matter is not this House; it cannot be referred to the Committee of Privileges; it is to be decided by the Governor and not this House.

Sri Mulka GOVINDA REDDY.— What is the judgment of the Tribunal?

Sri A. G. RAMACHANDRA RAO.— We do not know what the Election Commission has done.

Sri Mulka GOVINDA REDDY.— Article 192 must be read with article 191. I will read it.

> "(1) A person shall be disqualified for being chosen as, and for being, a member of the Legislative Assembly or Legislative Council of a State --
>
> (*a*) if he holds any office of profit under the Government of India or the Government of any State specified in the First Schedule, other than an office declared by the Legislature of the State by law not to disqualify its holder;
>
> (*b*) if he is of unsound mind. . . . ."

I am sure Sri H. M. Channabasappa is not of unsound mind.

> ". . and stands so declared by a competent court."

I may tell you that the members on the other side are of unsound mind.

> "(*c*) if he is an undischarged insolvent;"

He is not that.

> "(*d*) if he is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgment of allegiance or adherence to a foreign State;"

He is a citizen of India.

> "(*e*) if he is so disqualified by or under any law made by Parliament."
>
> (2) for the purposes of this article, a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State specified in the First Schedule by reason only that he is a Minister either for the Union or for such State."

(SRI MULKA GOVINDA REDDY.)

I would very much like to know from the Minister whether any of these provisions of the article warrant notification.

Mr. SPEAKER.—Article 192 is conditional. If any of these disqualifications arise under sub-clauses of article 191, then the question shall be referred to the decision of the Governor and that decision shall be final.

Sri A. G. RAMACHANDRA RAO.—I would invite the attention of the Chair to sub-clause (*e*) of article 191 of the Constitution.

"if he is disqualified by or under any law made by Parliament."

The Peoples' Representation Act is the law made by the Parliament and if he has incurred any disqualification, the further procedure is laid down there. Therefore, I submit at this stage the House cannot discuss this question and no privilege has been affected.

Mr. SPEAKER.—I will give the decision tomorrow.

A MEMBER.—Can the Minister continue to sit in this House?

Mr. SPEAKER.—Myself and yourself are not responsible for that.

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2 P.M.

Member's Representations.

ಶ್ರೀ ಕೆ. ಪುಟ್ಟಸ್ವಾಮಿ (ಶ್ರೀರಂಗಪಟ್ಟಣ).—ಸ್ವಾಮಿ, ನಭೆಯ ಕೆಲವರು ಸದಸ್ಯರು 'ಸುದರ್ಶನ'. ಅತಿಥಿ ಗೃಹದಲ್ಲಿದ್ದಾರೆ. ಇದರ ಸುತ್ತಲೂ ವಿಧಾನ ಸೌಧದ ಹತ್ತಿರದಿಂದ ಮಣ್ಣನ್ನು ತೆಗೆದುಕೊಂಡು ಬಂದು ಹಾಕುತ್ತಿದ್ದಾರೆ. ಈ ಸಂಬಂಧದಲ್ಲಿ ಮನವಿಯನ್ನು ತಮಗೂ ಒಂದು ಸಲ ಸಲ್ಲಿಸಿದ್ದೇನೆ. ಸರ್ಕಾರಕ್ಕೂ ಸಹ ಎರಡು ಸಲ ಸಲ್ಲಿಸಿದ್ದೇನೆ. ಆದರೂ ಕೂಡ ಯಾವ ವಿಧವಾದ ಪ್ರಯೋಜನವೂ ಆಗಿಲ್ಲ.

ಅಧ್ಯಕ್ಷರು.—ಕಾಗದವನ್ನು ಬರೆಯಿರಿ.

ಶ್ರೀ ಕೆ. ಪುಟ್ಟಸ್ವಾಮಿ.—ತಮಗೆ ಒಂದು ಸಲ ಸಾಕು ಎಂದು ತಿಳಿದುಕೊಂಡಿದ್ದೆ. ಸರ್ಕಾರಕ್ಕೆ ಎರಡು ಸಲ ಹೇಳಿದ್ದೇನೆ. ಈಗ ಪುನಃ ಕಾಗದ ಬರೆಯಿರಿ ಎಂದರೆ ನಾವೇನು ಅರ್ಜಿದಾರರೆ?

ಅಧ್ಯಕ್ಷರು.—ತಾವು ಹೇಳಿದ್ದು ನಿಜ. ಆದರೆ ವಿಷಯವನ್ನು ನಾನು ಮರೆತುಬಿಟ್ಟಿದ್ದೆ.

ADJOURNMENT MOTION

Re: Delay in Nationalization of the B.T.C.

Mr. SPEAKER.—The adjournment motion will be taken up tomorrow. I will anyway read the motion for the information of the House.

"That this House do stand adjourned to discuss a definite matter of urgent public importance and of recent occurrence, to wit, the situation arising out of the failure of the Government in nationalizing the Bangalore Transport Company on 1st April 1956 as announced by the Government previously."

STATES REORGANISATION BILL, 1956.

Motion to consider—(contd).

Mr. SPEAKER.—Before taking up the discussion on the S.R. Bill, the Chair desires to announce that on the 5th, if it is possible to close the debate on the Special Resolution earlier, the discussion on the Second Five-Year Plan will be taken up and it will be continued on the 6th and 7th also. The House will adjourn on the 7th.

ಶ್ರೀ ಎಚ್. ಕೆ. ವೀರಣ್ಣಗೌಡ (ಮದ್ದೂರು).—ಸ್ವಾಮಿ, ಈ ಸಭೆಯ ಮಾನ್ಯ ನಾಯಕರು ಈಗ ಸಭೆ ಮುಂದೆ ಮಂಡಿಸಿರುವ ಮಸೂದೆ ಅಂದರೆ ಸಂಸ್ಥಾನಗಳ ಪುನರ್ವಿಂಗಡಣೆಗೆ ಸಂಬಂಧಪಟ್ಟ ಮಸೂದೆಯ ವಿಚಾರದಲ್ಲಿ ಒಂದೆರಡು ಮಾತುಗಳನ್ನು ಹೇಳುವುದಕ್ಕೆ ತಮ್ಮ ಅಪ್ಪಣೆ ಬೇಡುತ್ತಿದ್ದೇನೆ. ಈ ಮಸೂದೆಯ ವಿಚಾರದಲ್ಲಿ ಹೊಸದಾಗಿ ಹೇಳಬೇಕಾದಂಥ ಅಂತಗಳು ಹೆಚ್ಚಾಗಿರುವುದಿಲ್ಲ. ಆದುದರಿಂದ ಹೆಚ್ಚುಕಾಲ ನಾನು ಭಾಷಣ ಮಾಡುವುದಕ್ಕೆ ತೆಗೆದುಕೊಳ್ಳುವುದಿಲ್ಲ. ತಮ್ಮಲ್ಲಿ ಇನ್ನೂ ಒಂದು ಅಂಶ ಅರಿಕೆ ಮಾಡಿಕೊಳ್ಳುವುದೇನೆಂದರೆ, ಹೇಳಿದುದನ್ನೇ ಸಂದರ್ಭಾನುಸಾರ ಹೇಳಬೇಕಾಗಿದೆ. ಇದಕ್ಕೆ ನಾನು ಜವಾಬ್ದಾರನೂ ಅಲ್ಲ, ಕಾರಣನೂ ಅಲ್ಲ. ಹೇಳಿದ ಮಾತನ್ನೇ ಪುನಃ ಹೇಳುವಂಥ ಅವಕಾಶ ಉಂಟಾಗಿರುವುದರಿಂದ ಅದೇ ಮಾತನ್ನು ಉತ್ತರ ರೂಪದಲ್ಲಿ ಹೇಳಬೇಕಾದ ಅಗತ್ಯ ಉಂಟಾಯಿತು. ಈ ಮಾತನ್ನು ವಿವರಿಸಿ ಹೇಳಬೇಕಾದರೆ ನಭಾನಾಯಕರು ಈ ಮಸೂದೆಯನ್ನು ಸಭೆಯ ಮುಂದೆ ಮಂಡಿಸುವಾಗ ಕಾನೂನು ಮತ್ತು ನ್ಯಾಯ ಇವುಗಳನ್ನು ಒತ್ತಟಿಗೆ ಇಟ್ಟು, ಲೌಕಿಕವಾಗಿ ಮಾತನಾಡೋಣ, ಯಾರಾದರೂ ಒಬ್ಬರು ನಮ್ಮ ಮನೆಗೆ ಬಂದರೆ, ಅತಿಥಿ ಸತ್ಕಾರ ಮಾಡತಕ್ಕ ಸಂಸ್ಕೃತಿ, ಇರತಕ್ಕ ಹಿಂದೂ ಜನ, ಮನೆಗೆ ಬರುವವರನ್ನು ಬರಬೇಡಿ